



STATE OF SOUTH CAROLINA  
DEPARTMENT OF EDUCATION

INEZ MOORE TENENBAUM  
STATE SUPERINTENDENT OF EDUCATION

**MEMORANDUM**

**TO:** DISTRICT SUPERINTENDENTS

**FROM:** DONALD N. TUDOR, DIRECTOR, OFFICE OF TRANSPORTATION

**DATE:** MARCH 27, 2002

**RE:** NEW DOT RULES REQUIRE PREVIOUS DRUG AND ALCOHOL TESTING RECORDS ON SCHOOL BUS DRIVERS

The recently revised U.S. Department of Transportation (DOT) regulation "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (Part 40 of Title 49 of the Code of Federal Regulations) now includes a provision that requires each regulated employer to obtain the records of previous drug and alcohol testing for all applicants for safety-sensitive positions (school bus drivers) and all employees transferring into school bus driving positions.

Previously, only employers regulated by the Federal Motor Carrier Safety Administration (FMCSA) were required to obtain drug and alcohol testing histories. The revised regulation covers all employers governed by the DOT drug and alcohol testing regulations.

The new provision requires that employers obtain the following records with the employee's written consent:

- a. alcohol test results that show an alcohol concentration of 0.04 or higher;
- b. verified positive drug test results;
- c. refusals to be tested (including verified adulterated or substituted drug test results);
- d. other violations of DOT agency drug and alcohol testing regulations; and
- e. with respect to any employee who has violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests).

This drug and alcohol background check applies only to applicants for positions in which they would perform safety-sensitive functions (school bus drivers) for your district for the first time (i.e., new hires) and to current employees who are transferring into safety-sensitive positions. The employer is required to contact previous DOT-regulated employers who have employed the applicant in a safety-sensitive position within the past two years. The company that is currently managing your drug and alcohol testing program can assist you in satisfying this requirement.

In summary, the regulation requires that, as the employer, you must obtain written consent from the applicant or employee before attempting to obtain his or her previous drug and alcohol testing records. If the applicant or employee refuses to give you this written consent, the applicant cannot be employed to drive a state-owned school bus. However, if the applicant or employee has given you written permission to conduct the check, you may allow him or her to perform safety-sensitive functions up to thirty days while you await the findings of the investigation. If the applicant or employee has had a DOT drug or alcohol violation with a previous employer, you must not allow the individual to perform a safety-sensitive function unless it can be documented that the applicant was evaluated by a substance abuse professional and has successfully completed the DOT return-to-duty requirements.

If you have any questions, call John Dozier at 803-734-8243.